

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
SOUTHWESTERN DIVISION**

NINA C. BARKLEY,)	
)	
Plaintiff,)	
v.)	
)	No. 06-5074-CV-SW-FJG-SSA
JO ANNE B. BARNHART,)	
Commissioner of Social Security,)	
)	
Defendant.)	

ORDER

Pending before the Court is Plaintiff's Application for Leave to File Civil Action In Forma Pauperis (Doc. No. 1). Together with said motion is Plaintiff's Affidavit of Financial Status.

Pursuant to 28 U.S.C. § 1915, this Court may authorize the commencement or prosecution of any suit without prepayment of fees when an applicant files an affidavit stating that he is unable to pay the costs of the lawsuit, and the Court determines that the lawsuit is not frivolous or malicious.

The Court must exercise its discretion in determining whether an applicant is sufficiently impoverished to qualify under § 1915. Cross v. Gen. Motors Corp., 721 F.2d 1152, 1157 (8th Cir. 1983). Such showing of poverty is sufficient if the applicant would become completely destitute or be forced to give up the basic necessities of life if required to pay the costs of the lawsuit. Adkins v. E.I. Du Pont De Nemours & Co., 335 U.S. 331,

339 (1948); Local Rule 83.7(a) (1999).

Plaintiff's Affidavit reveals that she is 47 years old and married. Plaintiff indicates she has one dependent, her seventeen-year-old daughter. Plaintiff states in her affidavit that she is currently unemployed, and states she was previously employed with Days Inn for 1 ½ months, earning a net income of \$500 per month. Plaintiff's spouse is retired, and receives \$742 per month in social security retirement.

Plaintiff owns a home and land, with an estimated value of \$36,000, and a total amount owed of \$26,000. Plaintiff indicates she owns a 1997 Nissan truck, and estimates its present value at \$2,000. Plaintiff indicates that she has \$102.00 cash on hand. Plaintiff indicates that she receives no income from any other sources. Plaintiff reports that her monthly mortgage expense is \$336.77, monthly grocery expenses of \$300.00, monthly utility expenses of \$160.00, and monthly phone expenses of \$75.00.

Based upon the information provided in plaintiff's affidavit, the Court believes that plaintiff is sufficiently impoverished to be permitted to proceed in forma pauperis. Therefore, the Court will grant plaintiff's application for leave to file this civil action in forma pauperis. Additionally, the Court finds that Plaintiff's complaint is not barred by 28 U.S.C. § 1915(e)(2)(B). The complaint does not appear to be frivolous, nor does it appear to state a claim on which relief cannot be granted or seek monetary relief against a defendant who is immune from such relief.

Accordingly, it is hereby **ORDERED** that:

1. Plaintiff's Motion to Proceed In Forma Pauperis (Doc. No. 1) is GRANTED;
2. Because this case is included in the Case Management/Electronic Case Filing (CM/ECF) system, plaintiff's counsel shall be responsible for electronically filing the

Complaint on or before July 26, 2006; and

3. Plaintiff shall be responsible for serving process pursuant to Rule 4 of the Federal Rules of Civil Procedure.

Date: July 20, 2006
Kansas City, Missouri

S/ FERNANDO J. GAITAN, JR.
Fernando J. Gaitan, Jr.
United States District Judge